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INTERNATIONAL CONFERENCE ON INDO-CHINESE REFUGEES: 1989

A STAFF REPORT

PREPARED FOR THE USE OF THE

SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS

OF THE

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MEMORANDUM OF TRANSMITTAL

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, June 23, 1989.

To: Senator EDWARD M. KENNEDY, *Chairman,*
Senator ALAN K. SIMPSON, *Ranking Member,*
Subcommittee on Immigration and Refugee Affairs, Committee on the Judiciary.

From: JERRY TINKER, *Staff Director,*
RICHARD DAY, *Minority Counsel.*

At your request, we participated as congressional staff advisers to the U.S. delegation to the Second International Conference on Indo-Chinese Refugees convened in Geneva by United Nations Secretary-General Javier Perez de Cuellar on June 13–14, 1989.

After a year-long preparatory effort by the U.N. High Commissioner for Refugees, M. Jean-Pierre Hocke, the Geneva Conference attempted to galvanize international action to deal more effectively and humanely with the continuing flow of refugees in Southeast Asia. As the accompanying report outlines, we believe these general goals were achieved, although serious issues remain, as do questions over the future implementation of the agreements reached by consensus in Geneva.

Given the importance the issues raised at Geneva have for U.S. refugee programs, we are reporting to the subcommittee our general observations and recommendations on the work of the conference. Also we outline some of the problems that will likely come before the subcommittee as the agreements reached in Geneva are implemented by participating governments, including the United States.

FOREWORD

By Senator EDWARD M. KENNEDY, *Chairman**

Ten years ago, representatives from over 60 countries met in Geneva to consider for the first time at a major conference the plight of hundreds of thousands of refugees in Southeast Asia. After 2 days of intensive diplomatic activity, and after a great deal of preparatory work by the U.N. High Commissioner for Refugees, the meeting concluded with a coordinated, international response to the Indo-Chinese refugee problem.

That first meeting served as a catalyst for the world's original effort to address the urgent humanitarian needs of refugees scattered throughout Southeast Asia—many unable at the time to even find temporary safe haven, their leaky boats being pushed out to sea, all facing uncertain futures with few or no prospects for resettlement elsewhere.

The 1979 Geneva Conference dealt with this crisis by doubling the resources made available to provide emergency care and assistance. It secured agreement by the countries of first asylum that they would provide temporary safe haven if they were assured of international support. It also saw a new commitment by third countries, including the United States, to provide permanent resettlement opportunities for refugees outside the region. Finally, and perhaps most important, it set the stage for the first initiative to deal with the problem at its source—the Orderly Departure Program—to provide an alternative to forcing tens of thousands of refugees to flee by boat with great risk and loss of human life.

During the decade since, the pact agreed upon in Geneva in 1979 has worked—although it was limited in scope, and there have clearly been serious lapses and more than a few broken promises. Despite this, the basic understandings between the countries of first asylum that they would provide protection for refugees if the countries outside the region provided assistance and opportunities for resettlement, has held for most of the decade. That is, until recent months.

Impatience with the continuing flow has grown; there seems to be no end in sight. The spector of a large, unanticipated residue of refugees left in Southeast Asia has increasingly alarmed countries of first asylum. Finally, the continued high demand for third country resettlement has, after a decade, taxed the resources and patience of outside countries as well. The lack of any real management or control of the flow through the Orderly Departure Pro-

*From a statement issued on June 12, 1989, in Geneva and Washington.

gram, has also brought despair. To many observers, the program was on the brink of breakdown.

For some months it has been clear that if the world is to avoid a tragic ending to what has been until now, an extraordinarily humane international effort, new and urgent action must be undertaken to deal more effectively with the continued movement of Indo-Chinese. New approaches are required to cope with this flow into Southeast Asia, while more realistic steps are taken to deal with the problem at its source.

Critically important in this process will be efforts by all nations, within the region and outside, to improve the political climate in Southeast Asia—by ending years of conflict in Cambodia, by negotiating the end to other longstanding differences, and by assisting countries to deal with problems that contribute to the desperate movement of peoples throughout the region. As always, the fate of refugees is linked to the larger questions of war and peace and economic stability—of diplomacy instead of conflict. To this end, the United States can best contribute by taking the necessary steps to normalize relations with Vietnam. That is one of the most realistic ways for us to deal with these humanitarian problems at their source.

Finally, the office of the U.N. High Commissioner for Refugees must begin to adjust its programs of humanitarian assistance—taking steps to screen refugees from nonrefugees; securing greater protection for *bona fide* refugees; establishing programs to help the countries of origin; and providing new procedures, consistent with international humanitarian law, to facilitate both the repatriation as well as the resettlement of Indo-Chinese.

That was the agenda before the international community at the conference in Geneva. It is a critical time—a watershed point—for the Indo-Chinese program. New diplomatic approaches must be reviewed; international responsibilities delineated; and old obligations reestablished.

I am hopeful the United States will assume its traditional leadership—as we did in Geneva in 1979—and support these new international efforts to address the root causes behind the continued refugee flow, as well as promote durable solutions for the future.

What is needed now is a commitment to implement the UNHCR's "Comprehensive Plan of Action"; it provides the framework for the international community to respond to the new situation in Southeast Asia.

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INTERNATIONAL CONFERENCE ON INDO-CHINESE REFUGEES: 1989

UNITED NATIONS, GENEVA: JUNE 13–14

PURPOSE

A decade ago—on July 20, 1979—the first United Nations conference on Indo-Chinese refugees met in Geneva to consider the escalating plight of tens of thousands of refugees seeking help and safe haven in Southeast Asia. The issue then, as it was in Geneva this month, was how the international community would respond—whether it could marshal greater support to deal with a mounting tide of refugees. But unlike 1979, when many refugees were being refused asylum, in 1989 the question in Geneva was how to find more durable solutions for those reaching first-asylum countries.

The 1979 conference served as the first catalyst for international action, addressing the immediate need for first asylum and for humanitarian assistance. It also set in motion agreements for the resettlement, repatriation or local settlement of the refugees granted temporary asylum—agreements only partially realized.

For most of the decade these commitments worked relatively well, and in a sense they set the stage for the longer term solutions sought in Geneva this month. However, by late last year the mounting evidence over the changing character of the Indo-Chinese flow, coupled with problems in finding sufficient opportunities for third country resettlement, made it clear the United Nations High Commissioner for Refugees (UNHCR) had to reassess the Indo-Chinese refugee program and to find alternative solutions to those established in 1979.

Thus, the purpose of the second international conference was to reach agreement on new and more comprehensive approaches to the refugee problem, particularly in dealing with the continued flow of "boat people" from Vietnam. The work of the conference was based upon a year-long diplomatic effort by the UNHCR, with the strong support of the United States, to fashion a plan of action that would guide the work of the conference.

This was accomplished at a meeting in Kuala Lumpur, Malaysia, in March 1989, and the "Comprehensive Plan of Action" adopted in Geneva succeeded in establishing the following four goals to cope with the continuing refugee flow in Southeast Asia:

—Renewing more regular, and legal, mechanisms to assist and control migration from Indochina;

—Reaffirming the principle of first asylum and the commitment to provide refugee protection;

—Protecting the integrity and concept of refugee status by screening our nonrefugees; and

—Establishing new methods to promote the safe return of nonrefugees, as well as providing continued opportunities for third country resettlement for genuine refugees.

These goals at the conference were the basis of the eight-point Comprehensive Plan of Action finally adopted in Geneva (see appendix I for the full text).

ISSUES BEFORE THE CONFERENCE

The 1979 Geneva Conference created the first basic understandings with the countries of first asylum. If they would provide protection and temporary asylum for arriving Indo-Chinese, the countries outside the region (principally the United States, Canada, Australia, France and, for assistance, Japan) would provide humanitarian assistance and resettlement opportunities. In the main, this pact has held, with a few notable (and regrettable) exceptions, for a decade.

However, impatience over the continued flow of Indo-Chinese has grown in recent years, both within and outside the region. The notion that a large and unwelcome residue of Indo-Chinese would be left behind in the countries of first asylum clearly alarmed ASEAN countries—particularly as the countries of resettlement tired of the unending demand for onward movement. It seemed for every Indo-Chinese refugee granted temporary asylum and protection by ASEAN countries, and permanent resettlement in third-countries, another refugee arrived to take his place.

In short, impatience over the failure to find durable solutions to the continuing flow threatened to break the 1979 agreements, risking the collapse of first asylum and an erosion of third-country resettlement. As more than one participant at the preparatory meetings before the conference suggested, unless new and urgent international action was forthcoming to deal with the continued flow, a tragic ending might come to what had been, until now, an outstanding example of humane and cooperative international action.

Thus, three separate but interrelated issues dominated the agenda at Geneva, as well as discussions in the corridors: first, how to deal with the immediate threat to refugee protection and first asylum; second, how to discourage further unauthorized, chaotic, and dangerous departures from Indochina, particularly "boat people" from Vietnam; and third, how to facilitate the safe return or repatriation of Indo-Chinese, rather than simply continue third-country resettlement as the primary solution.

1. Protection and assistance

The immediate impetus for convening the Geneva Conference was the growing threat to the principle of first asylum and the need to provide greater protection to refugees throughout the region. In the light of the ASEAN countries and Hong Kong's increased anxiety over the unending flow of Indo-Chinese—coupled with an accompanying decline in third-country resettlement—the international community clearly had to offer some new alternatives to the 1979 approach. And based upon the widely shared view among ASEAN nations and others that the nature and migratory character of the Indo-Chinese flow had changed, this meant, at a

minimum, the initiation of some new screening program—to sort *bona fide* refugees from nonrefugees, and sending home those who did not qualify. This was a step not taken, or even seriously addressed, at the 1979 conference.

In turn, those countries and groups most concerned over the existing protections and assistance of Indo-Chinese reluctantly faced the fact that the only way to assure first asylum in their behalf was to accept a fair and internationally supervised screening procedure rather than risk more boat "push-offs."

These two conflicting views merged in Geneva, and are reflected in the key provisions of the Plan of Action.

2. Safe Return and Repatriation

Implicit in the establishment of a screening program is that some arriving Indo-Chinese will qualify as "refugees"—with the full protection and eligibility for international assistance that such a status implies—while others will be screened out as "nonrefugees" and not have those protections (except those already accorded to migrants, illegal aliens and others under general human rights conventions).

Obviously, after the Indo-Chinese go through the "screening" process, the international community must establish safe mechanisms for their return to their homes or settlement elsewhere. For "refugees," this means third-country resettlement, or perhaps voluntary repatriations if conditions change at home. For "nonrefugees," this requires a negotiated method to assure their "safe," and closely monitored, return home, whether strictly voluntary or not. Internationally, this means deportations or some bilateral repatriation agreement (such as those between the United States and Mexico or Haiti), or internationally assisted repatriations (such as those in Africa).

For the bulk of Indo-Chinese "boat people" today, this means returning to Vietnam—which, to date, has not welcomed the specter of large numbers of their citizens, who fled illegally, suddenly returning to Vietnam legally. Hence, a fundamental issue at Geneva, and in the talks preceding the conference, was over Vietnam's willingness to facilitate the establishment of methods for the safe return of nonrefugees to Vietnam—under international auspices and with international monitoring and assistance (all of which is a diplomatic way of saying it will be done "with cash assistance" to "ease the burdens of reintegration"—in short, to make it worthwhile to Vietnam).

The groundwork for these negotiations was successfully laid in Geneva.

3. Orderly Departure

One of the principal initiatives of the 1979 Geneva Conference was the implementation of the Orderly Departure Agreement (ODP) between UNHCR and the Government of Vietnam, negotiated in March 1979 by the then Deputy U.N. High Commissioner for Refugees, Dale deHaan. The ODP agreement was the first real alternative proposed to the illegal and dangerous boat departures from Vietnam. And it still is.

Sluggish at the beginning, the ODP program nonetheless gained momentum over the decade, and one of the key issues in Geneva was how to reinvigorate and expand this program. If Vietnam was to truly close off unauthorized departures, how were those Vietnamese who had well-founded reasons for leaving Vietnam—political or family—be able to do so, and in a safe and authorized manner? Finally, the exodus of "boat people" can only be discouraged if new enforcement procedures are accompanied by new opportunities for orderly departure; thus, the decision to strengthen and expand ODP.

In conclusion, the Geneva conferees accomplished these interrelated objectives and laid the groundwork for the Steering Committee to gain better control over the exodus of Indo-Chinese, by:

(a) Proposing new methods for controlling illegal departures while opening new opportunities for legal migration;

(b) Discouraging the uncontrolled movement of "economic migrants" by implementing a screening program to sort out genuine refugees from nonrefugees; and

(c) Facilitating the safe repatriation of Indo-Chinese while continuing to provide resettlement for those who qualify. The basic principles of refugee protection and first asylum were reaffirmed, while new alternatives to third-country resettlement were established as the means for achieving durable solutions to the Indo-Chinese problem.

Observations and Recommendations

NEED FOR ACTION

In many respects, the conference in Geneva was a "success" simply by its calling. Its convening, in itself, signaled the international community's recognition over the need to deal more effectively with the flow of Indo-Chinese.

Critics may say the conference sounded negative and restrictive in tone, as compared to that in Geneva in 1979. But this ignores the substance of the meeting, which was clearly positive and constructive. The Geneva Conference kept the door open to *bona fide* Indo-Chinese refugees by attempting to close it to nonrefugees, and it developed more humane alternatives to some very inhumane proposals well underway in the region until the Geneva Conference was proposed.

The need for constructive action by the United States was also long overdue. As a country which cares deeply about the fate of Indo-Chinese refugees, failure by the United States to deal with the hard choices in Geneva would have handed the fate of the refugee to those who care less. The U.S. delegation responded accordingly, with the knowledge that if we were to protect the integrity of the refugee definition and keep resettlement opportunities open for those who need it the most, the United States must be willing to say "no" to some Indo-Chinese—to "screen out" nonrefugees. If the friends of refugees had taken an unyielding stance in Geneva against the demand by the ASEAN and other countries to start a screening alternative to the lure of unending resettlement, then the countries of first asylum would have ignored the United States and perhaps have closed their doors as well. Our humanitarian

pleas would have fallen on deaf ears, and genuine refugees would have suffered as a consequence.

The more humane option pursued in Geneva was to engage the debate over how to screen refugees, not whether to screen them—and how to develop fair and humane procedures under international auspices. This the U.S. delegation did, and while much remains to be done to achieve this goal, the first step has been taken.

The UNHCR still must establish adequate procedures and secure the agreement of the involved governments to use them. And Hong Kong's screening process demonstrates the difficulty in establishing such procedures—as internal UNHCR memoranda and the independent monitoring of such groups as the Lawyers Committee for Human Rights have pointed out. But the process has begun and must continue under the guidance of the Steering Committee established in Geneva, which will work under UNHCR auspices to implement a humane and responsible screening program.

CREATION OF "HOLDING CENTERS"

The establishment of a screening process would suggest it means what it implies—that the international community, through its collective agent, the UNHCR—will say "yes" or "no" to Indo-Chinese seeking asylum. "Yes" to those who are considered *bona fide* refugees under the applicable provisions of the U.N. Convention and Protocol—who will then be given UNHCR protection and assistance, as well as the opportunity to seek resettlement, voluntary repatriation, or local settlement, whichever is appropriate or available. And "no" to those who are *not* refugees. Alternative mechanisms for their safe return home must then be negotiated under international auspices.

But there should not be a "maybe" category. Yet, a number of refugee advocates, reluctant to accept the notion of a screening process—of ever having to "just say no"—latched upon the idea in Geneva of saying "maybe" through the establishment of a "holding center" for those screened out. Since it was unacceptable in their view to send anyone back to Vietnam at this time (or in the foreseeable future, or, for that matter, forever), it followed that some kind of "holding center" should be established. The Philippines offered an empty island, but with a long list of conditions; and the issue remains unresolved.

However, creation of such a center risks undermining the screening process, and could be a disaster in the making for a number of reasons. First, by saying "maybe" to a new class of Indo-Chinese, the international community would be laying the seeds for the growth of another "long-stayer" population—such as the one which has already developed in Southeast Asia—where resettlement countries have already said "no" to thousands of Indo-Chinese, concluding they are not refugees, but leaving them to languish in camps to the point where the very delay (becoming a "long-stayer") now qualifies them for resettlement abroad.

Creating a "holding center" for those now rejected as refugees, but not immediately able to return to their homes, will simply produce a second generation of "long-stayers." If the original screening process is fair, humane and subject to international

review, then the results of the process should be accepted—not undermined—by temporizing over the verdict.

Second, a "holding center" will undoubtedly be labeled a "concentration camp" or worse, no matter what the standards or conditions are. The concept in and of itself will be (and, perhaps, should be) repugnant to many, and will be criticized accordingly.

Third, a permanent "holding center" must be established under international auspices—yet the obvious candidate, the UNHCR, would be unlikely to accept this responsibility. Not only will the persons in such a center be outside the High Commissioner's mandate (since, by definition, they are not refugees), responsibility for running this kind of center would be contrary to both the spirit and letter of the UNHCR's mandate. Instead, the Indo-Chinese screened out should remain in already established processing camps within the region until the modalities for their safe return can be established.

REPATRIATION AND SAFE RETURN

Just as there is a distinction under international law between someone who is a refugee and someone who is not, there are also distinctions on how those people can or should be returned to their native lands.

Under international law, a "refugee" may be "repatriated," but only "voluntarily." A "nonrefugee," however, may be deported or returned through a variety of methods and under different laws and practices. In the case of Indo-Chinese, the standard articulated in Geneva was to establish, through negotiations, an internationally sanctioned program of "safe return, with dignity" for nonrefugees. This return program was not to be "forced," but neither was it to be strictly "voluntary"—the distinction being deliberately vague in order to allow an evolutionary process to develop through bilateral negotiations and the work of the UNHCR. Any such "safe return" program must be within the recognized bounds of the applicable human rights conventions, but not necessarily "voluntary."

If these conditions and procedures can be established to the full satisfaction of the UNHCR and the new "Steering Committee," the United States should drop its current resistance against the return of any Indo-Chinese to there native lands. Instead, we should accept repatriation as soon as it is safe, orderly, and assisted under UNHCR auspices.

DEALING WITH "ROOT CAUSES"

More than one delegate (in addition to Vietnam and the Soviet delegate) mentioned the need for the international community to address the "root causes" behind the exodus of Indo-Chinese from their native countries. This obviously makes sense, expecially if most agree—as they did at Geneva—that the flow from Indochina has increasingly become economic in character—of migrants in search of a better life. The state of Vietnam's economy is then part of the problem and, therefore, part of the solution.

Without proposing that the international community-at-large, much less the United States, has any obligation to assist Vietnam

overcome its self-imposed economic failure, it is not unreasonable to suggest that some form of renewed relations, if not foreign aid, would help deal with some of the migration pressures from Vietnam. They might also facilitate the departure of those Vietnamese whom we seek to assist (such as political prisoners and family members of American citizens and residents).

The United States must finally deal directly with Vietnam over the many humanitarian problems that remain in the aftermath of the war, and by ending our years of isolating Vietnam. It is time to take some concrete steps toward normalizing relations—of talking more directly and frequently with Hanoi, *in* Hanoi. This can only help, not hinder, our humanitarian efforts. There is ample precedence for establishing American "interests" sections in other countries where we do not have diplomatic relations, but with which we desire more regular diplomatic contact. Surely, Vietnam is a candidate for this today.

Finally, if the United States is understandably reluctant to provide any direct economic assistance to Vietnam at this time, we can at least withdraw some of our negative economic sanctions. That in itself would be a positive step and a signal we are willing to join the international community in dealing with some of the "root causes" behind the Indo-Chinese flow—especially if they, in turn, are more realistic in dealing with them and in implementing the understandings and agreements reached in Geneva.

CONTINUED ADMISSION OF INDO-CHINESE REFUGEES

Because of the weary and rather negative rhetoric at the Geneva Conference, one of the least noticed but more remarkable aspects of the Conference was the explicit support it provided for additional resettlement and assistance to *bona fide* refugees. The frequent and more publicly expressed frustrations of governments over the continued exodus of Indo-Chinese distracted many from the far more important message, and consensus of among most, that genuine refugees need more protection, more assistance, and more help in finding resettlement—not less.

Despite the apparent gulf between delegations on how to better manage the Indo-Chinese problem, in the end, all agreed to adopt the "Comprehensive Plan of Action" which, by any reading, is an extraordinarily generous, fair and flexible document in support of Indo-Chinese refugees.

In short, the doors of the world did not close to Indo-Chinese refugees in Geneva. Rather, genuine refugees can now be better protected and their rights secured by distinguishing them from those who are not refugees and whose uncontrolled movement has endangered first asylum and refugee protection.

In support to this process, the United States, in the statement delivered by Deputy Secretary of State Lawrence Eagleburger, reaffirmed America's commitment to participate fully and generously in the Indo-Chinese refugee program. For Congress, this means a continuing responsibility to accept additional refugees for resettlement, and to support the international effort to deal with the "long-stayer" population once new screening procedures are implemented. This may mean a temporary increase in the total number

of refugees admitted from Southeast Asia, but Congress and the American people should be generous—especially when it is part of a serious effort to reach the durable solution agreed upon in Geneva.

CONCLUSION

The "Comprehensive Plan of Action" adopted in Geneva established the basis for a renewal of the international community's effort to cope with the continued exodus of Indo-Chinese refugees, as well as mechanisms for dealing more effectively with their ultimate solution.

The Steering Committee appointed by the Conference is now charged with the responsibility for implementing the agreements and understandings made in Geneva—to close the gap between promises made and actions taken in the field.

The days ahead will be crucial, as will be America's continued responsibility to support the work of the UNHCR and programs to assist Indo-Chinese refugees.

APPENDIX I

UNITED NATIONS GENERAL ASSEMBLY,
DISTR. GENERAL,
April 26, 1989.

INTERNATIONAL CONFERENCE ON INDO-CHINESE REFUGEES
(Geneva, June 13 and 14, 1989)

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DRAFT DECLARATION AND COMPREHENSIVE PLAN OF ACTION, APPROVED BY THE PREPARATORY MEETING FOR THE INTERNATIONAL CONFERENCE ON INDO-CHINESE REFUGEES MARCH 8, 1989

Note by the Secretary-General

1. The Preparatory Meeting for the International Conference on Indo-Chinese Refugees, convened by the Government of Malaysia, was held at Kuala Lumpur from March 7 to 9, 1989. It approved by consensus the text of a draft Declaration and Comprehensive Plan of Action.

2. In accordance with a request contained in a letter dated March 24, 1989, from the Chairman of the Preparatory Meeting to the Secretary-General, the above-mentioned text is being brought to the attention of the Conference.

DRAFT DECLARATION AND COMPREHENSIVE PLAN OF ACTION

I. DECLARATION

The Governments of the States represented in the International Conference on Indo-Chinese Refugees, held at Geneva from June 13 to 14, 1989,

Having reviewed the problems of Indo-Chinese asylum-seekers in the South-East Asian region,

Noting that, since 1975, over 2 million persons have left their countries of origin in Indochina and that the flow of asylum-seekers still continues,

Aware that the movement of asylum-seekers across frontiers in the Southeast Asian region remains a subject of intense humanitarian concern to the international community.

Recalling United Nations General Assembly Resolution 3455 (XXX) and the first Meeting on Refugees and Displaced Persons in Southeast Asia convened at Geneva in July 1979 under the auspices of the United Nations to address the problem,

Recalling further the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and related instruments,

Noting with satisfaction that, as a result of combined efforts on the part of Governments and international organizations concerned, a durable solution has been found for over 1.6 million Indo-Chinese,

Preoccupied however by the burden imposed, particularly on the neighboring countries and territories, as a result of the continuation of the outflow and the presence of large numbers of asylum-seekers still in camps,

Alarmed by indications that the current arrangements designed to find solutions for asylum-seekers and resolve problems stemming from the overflow may no longer be responsive to the size, tenacity and complexity of the problems in the region,

Recognizing that the resolution of the problem of asylum-seekers in the region could contribute positively to a climate of peace, harmony and good neighborliness,

Satisfied that the international community, and in particular the countries directly involved, have responded positively to the call for a new international conference made by the States members of the Association of Southeast Asian Nations and endorsed by the Executive Committee of the Programme of the United Nations High Commissioner for Refugees at its 39th session and by the General Assembly of the United Nations at its 43rd session,

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Noting the progress achieved towards a solution of this issue by the various bilateral and multilateral meetings held between the parties concerned prior to the International Conference on Indo-Chinese Refugees,

Noting that the issues arising from the presence of Khmer refugees and displaced persons are being discussed, among the parties directly involved, within a different framework and as such have not been included in the deliberations of the Conference,

Noting with satisfaction the positive results of the Preparatory Meeting for the Conference, held in Kuala Lumpur from 7 to 9 March 1989,

Realizing that the complex problem at hand necessitates the cooperation and understanding of all concerned and that a comprehensive set of mutually reenforcing humanitarian undertakings, which must be carried out in its totality rather than selectively, is the only realistic approach towards achieving a durable solution to the problem,

Acknowledging that such a solution must be developed in the context of national laws and regulations as well as of international standards,

Have solemnly resolved to adopt the attached Comprehensive Plan of Action.

II. Comprehensive Plan of Action

A. CLANDESTINE DEPARTURES

1. Extreme human suffering and hardship, often resulting in loss of lives, have accompanied organized clandestine departures. It is therefore imperative that humane measures be implemented to deter such departures, which should include the following:

(a) Continuation of official measures directed against those organizing clandestine departures, including clear guidelines on these measures from the central government to the provincial and local authorities.

(b) Mass media activities at both local and international level, focusing on:

(i) The dangers and hardship involved in clandestine departures;

(ii) The institution of a status-determination mechanism under which those determined not be refugees shall have no opportunity for resettlement;

(iii) Absence of any advantage, real or perceived, particularly in relation to third-country resettlement, of clandestine and unsafe departures;

(iv) Encouragement of the use of the regular departure and other migration programmes;

(v) Discouragement of activities leading to clandestine departures.

(c) In the spirit of mutual cooperation, the countries concerned shall consult regularly to ensure effective implementation and coordination of the above measures.

B. REGULAR DEPARTURE PROGRAMMES

2. In order to offer a preferable alternative to clandestine departures, emigration from Vietnam through regular departure procedures and migration programmes, such as the current Orderly Departure Programme, should be fully encouraged and promoted.

3. Emigration through regular departure procedures and migration programmes should be accelerated and expanded with a view to making such programmes the primary and eventually the sole modes of departure.

4. In order to achieve this goal, the following measures will be undertaken:

(a) There will be a continuous and widely publicized media campaign to increase awareness of regular departure procedures and migration programmes for departure from Vietnam.

(b) All persons eligible under regular third-country migration programmes, Amerasians and former reeducation centre detainees will have full access to regular departure procedures and migration programmes. The problem of former reeducation centre detainees will be further discussed separately by the parties concerned.

(c) Exit permits and other resettlement requirements will be facilitated for all persons eligible under regular departure procedures and migration programmes.

(d) Vietnam will fully cooperate with the United Nations High Commissioner for Refugees (UNHCR) and the Intergovernmental Committee for Migration (ICM) in expediting and improving processing, including medical processing, for departures under regular departure procedures and migration programmes and

will ensure that medical records of those departing comply with standards acceptable to receiving countries.

(e) Vietnam, UNHCR, ICM and resettlement countries will cooperate to ensure that air transportation and logistics are sufficient to move expeditiously all those accepted under regular departure procedures and migration programmes.

(f) If necessary, countries in Southeast Asia through which people emigrating under regular departure procedures and migration programmes must transit will, with external financial support as appropriate, expand transit facilities and expedite exit and entry procedures in order to help facilitate increased departures under such programmes.

C. RECEPTION OF NEW ARRIVALS

5. All those seeking asylum will be given the opportunity to do so through the implementation of the following measures:

(a) Temporary refuge will be given to all asylum-seekers, who will be treated identically regardless of their mode of arrival until the status-determination process is completed.

(b) UNHCR will be given full and early access to new arrivals and will retain access, following the determination of their status.

(c) New arrivals will be transferred, as soon as possible, to a temporary asylum center where they would be provided assistance and full access to the refugee status-determination process.

D. REFUGEE STATUS

6. The early establishment of a consistent regionwide refugee status-determination process is required and will take place in accordance with national legislation and internationally accepted practice. It will make specific provision, *inter alia*, for the following:

(a) Within a prescribed period, the status of the asylum-seeker will be determined by a qualified and competent national authority or body, in accordance with established refugee criteria and procedures. UNHCR will participate in the process in an observer and advisory capacity. In the course of that period, UNHCR shall advise in writing each individual of the nature of the procedure, of the implications for rejected cases and of the right to appeal the first-level determination.

(b) The criteria will be those recognized in the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, bearing in mind, to the extent appropriate, the 1948 Universal Declaration of Human Rights and other relevant international instruments concerning refugees, and will be applied in a humanitarian spirit taking into account the special situation of the asylum-seekers concerned and the need to respect the family unit. A uniform questionnaire developed in consultation with UNHCR will be the basis for interviews and shall reflect the elements of such criteria.

(c) The Handbook on Procedures and Criteria for Determining Refugee Status issued by UNHCR will serve as an authoritative and interpretative guide in developing and applying the criteria.

(d) The procedures to be followed will be in accordance with those endorsed by the Executive Committee of the Programme of the United Nations High Commissioner for Refugees in this area. Such procedures will include, *inter alia:*

(i) The provision of information to the asylum-seekers about the procedures, the criteria and the presentation of their cases;

(ii) Prompt advice of the decision in writing within a prescribed period;

(iii) A right of appeal against negative decisions and proper appeals procedures for this purpose, based upon the existing laws and procedures of the individual place of asylum, with the asylum-seeker entitled to advice, if required, to be provided under UNHCR auspices.

7. UNHCR will institute, in cooperation with the Governments concerned, a comprehensive regional training programme for officials involved in the determination process with a view to ensuring the proper and consistent functioning of the procedures and application of the criteria, taking full advantage of the experience gained in Hong Kong.

E. RESETTLEMENT

8. Continued resettlement of Vietnamese refugees benefiting from temporary refuge in Southeast Asia is a vital component of the Comprehensive Plan of Action.

1. Long-Stayers Resettlement Programme

9. The Long-Stayers Resettlement Programme includes all individuals who arrived in temporary asylum camps prior to the appropriate cut-off date and would contain the following elements:

(a) A call to the international community to respond to the need for resettlement, in particular through the participation by an expanded number of countries, beyond those few currently active in refugee resettlement. The expanded number of countries would include, among others, the following: Australia, Austria, Belgium, Canada, Denmark, Germany, Federal Republic of, Finland, France, Ireland, Italy, Japan, Luxermbourg, Netherlands, New Zealand, Norway, Spain, Sweden, Switzerland, United Kingdom, and United States of America.

(b) A multiyear commitment to resettle all the Vietnamese who have arrived in temporary asylum camps prior to an agreed date, except those persons already found not to be refugees under established status-determination procedure and those who express the wish to return to Vietnam. Refugees will be advised that they do not have the option of refusing offers of resettlement, as this would exclude them from further resettlement consideration.

2. Resettlement Programme for Newly Determined Refugees

10. The Resettlement Programme for Newly Determined Refugees will accommodate all those who arrive after the introduction of status determination procedures and are determined to be refugees. Within a designated period after their transfer to the resettlement area, those determined to be refugees shall receive an orientation briefing from a UNHCR representative that explains the third-country resettlement programme, the length of time current arrivals may be expected to spend in camp awaiting resettlement, and the necessity of adhering to the rules and regulations of the camp.

11. Wherever possible, a pledge shall be sought from the resettlement countries to place all those determined to be refugees, except those expressing the wish to return to Vietnam, within a prescribed period. It shall be the responsibility of UNHCR, with the full support of all the resettlement countries and countries of asylum, to coordinate efforts to ensure that departures are effected within that time.

F. REPATRIATION/PLAN OF REPATRIATION

12. Persons determined not to be refugees should return to their country of origin in accordance with international practices reflecting the responsibilities of States towards their own citizens. In the first instance, every effort will be made to encourage the voluntary return of such persons.

13. In order to allow this process to develop momentum, the following measures will be implemented:

(a) Widely publicized assurances by the country of origin that returnees will be allowed to return in conditions of safety and dignity and will not be subject to persecution.

(b) The procedure for readmission will be such that the applicants would be readmitted within the shortest possible time.

(c) Returns will be administered in accordance with the above principles by UNHCR and ICM, and internationally funded reintegration assistance will be channelled through UNHCR, according to the terms of the Memorandum of Understanding signed with Vietnam on December 13, 1988.

14. If, after the passage of reasonable time, it becomes clear that voluntary repatriation is not making sufficient progress towards the desired objective, alternatives recognized as being acceptable under international practices would be examined. A regional holding center under the auspices of UNHCR may be considered as an interim measure for housing persons determined not to be refugees pending their eventual return to the country of origin.

15. Persons determined not to be refugees shall be provided humane care and assistance by UNHCR and international agencies pending their return to the country of origin. Such assistance would include educational and orientation programmes designed to encourage return and reduce reintegration problems.

G. LAOTIAN ASYLUM-SEEKERS

16. In dealing with Laotian asylum-seekers, future measures are to be worked out through intensified trilateral negotiation between UNHCR, the Lao People's Democratic Republic and Thailand, with the active support and cooperation of all parties concerned. These measures should be aimed at:

(a) Maintaining safe arrival and access to the Lao screening process;

(b) Accelerating and simplifying the process for both the return of the screened out and voluntary repatriation to the Lao People's Democratic Republic under safe, humane and UNHCR-monitored conditions.

17. Together with other durable solutions, third-country resettlement continues to play an important role with regard to the present camp populations of the Laotians.

H. IMPLEMENTATION AND REVIEW PROCEDURES

18. Implementation of the Comprehensive Plan of Action is a dynamic process that will require continued coordination and possible adaptation to respond to changing situations. In order to ensure effective implementation of the Plan, the following mechanisms shall be established:

(a) UNHCR, with the financial support of the donor community, will be in charge of continuing liaison and coordination with concerned governments and intergovernmental as well as nongovernmental organizations to implement the Comprehensive Plan of Action.

(b) A Steering Committee based in Southeast Asia will be established. It will consist of representatives of all Governments making specific commitments under the Comprehensive Plan of Action. The Steering Committee will meet periodically under the chairmanship of UNHCR to discuss implementation of the Comprehensive Plan of Action. The Steering Committee may establish subcommittees as necessary to deal with specific aspects of the implementation of the Plan, particularly with regard to status determination, return and resettlement.

(c) A regular review arrangement will be devised by UNHCR, preferably in conjunction with the annual Executive Committee session, to assess progress in implementation of the Comprehensive Plan of Action and consider additional measures to improve the Plan's effectiveness in meeting its objectives.

APPENDIX II

INTERNATIONAL CONFERENCE ON INDO-CHINESE REFUGEES

(GENEVA, JUNE 13 AND 14, 1989)

Statement delivered by the United Nations High Commissioner for Refugees on June 13, 1989

Mr. President, Mr. Secretary-General, Your Excellencies, Distinguished Delegates, Ladies and Gentlemen,

A decade has elapsed since the international community met here in Geneva, under the chairmanship of the then Secretary-General of the United Nations, to address a crisis caused by the massive influx of Indo-Chinese asylum-seekers into the Southeast Asian region. That crisis was one of vast proportions and a response of an equal scale was required from the community of nations. Looking back from the vantage point of the present at what has been accomplished over the last 10 years, we see an achievement that is almost without parallel in the history of my Office as a concerted and sustained effort by the international community to ensure asylum and protection and provide durable solutions to such a large and diverse refugee population. On the basis of the burden-sharing arrangements agreed upon in July 1979, first asylum has been secured and durable resettlement solutions made available to well over 1 million refugees, allowing them to begin new and productive lives in security and dignity.

Nevertheless, Mr. President, we are all painfully aware that what has been achieved in this spirit of international solidarity has required constant vigilance and ever renewed efforts in the face of the appalling tragedies and less spectacular human misery that have accompanied the Indo-Chinese refugee exodus. There have been occasions when the political will to provide asylum and durable solutions has faltered and even failed resulting, *inter alia*, in the outright denial of asylum, including tragic "push-offs" of refugees boats, in restriction of access by my Office to asylum-seekers, or in prolonged internment of persons of our concern under difficult conditions which fall below minimum accepted standards. The passage of time, perceived changes in the nature of the outflow from the countries of Indochina and, since 1986, a sharp upturn in the scale of the boat exodus from Vietnam have progressively eroded the consensus on which our approach to the Indo-Chinese refugee question has been based. The complex situation we now find ourselves in demands a new approach which takes due account of changed realities and different needs 10 years after our last international meeting and 14 years after the exodus of Indo-Chinese asylum-seekers began. I nevertheless wish to preface my remarks with an urgent appeal to all here present to ensure that the same spirit of humanitarianism as was so apparent in 1979 again guides our deliberations today and informs any new arrangements that may be decided upon by this Conference. It is my firm belief that, in maintaining that spirit in this humanitarian forum and in avoiding a partisan and adversarial approach to the problem that faces us, we will not only find a solution acceptable to all parties but also make a significant contribution to the development of the universally applauded peace process in the South-East Asian region, wherein lies an eventual overall and durable solution to the refugee problems we are here to discuss.

Mr. President, the past year has been marked by an intensive series of multilateral consultations with countries of origin, of first asylum and of resettlement which have been conducted in an effort to find a new comprehensive and solution-oriented approach to the Indo-Chinese refugee problem. The draft *Comprehensive Plan of Action* that we have before us today embodies the results of that process. It attempts to address and reconcile a range of complex political, diplomatic, legal and humanitarian issues, not all of which are easily reconcilable. The pressures and inclinations to succumb to simpler and harsher responses are great, and are not new. Yet if the history of this refugee exodus has taught us anything, it has shown that such responses are counterproductive and, in the longer term, unsustainable. In insisting on the proper protection of the asylum-seekers concerned, we are not blindly

ingnoring the intense and dynamic political realities which circumscribe this problem. Rather we are attempting to establish the only viable framework within which the complex balance of interests reflected in the provisions of the Comprehensive Plan of Action can be maintained. The fragility of the balance is well-known to us all, and nothing is more likely to destabilize it than hasty and harsh unilateral action to deal with any one of its components.

While conscious of that fragility and deeply preoccupied by the very high current rate of arrivals in the Southeast Asian region with the danger implicit in it for any new set of humanitarian arrangements, my Office is greatly encouraged by the extent of the agreement which has been reached in the process of drawing up the draft CPA, which was endorsed by all 29 directly concerned governments which attended the Preparatory Meeting held in Kuala Lumpur in March this year. The source of that encouragement lies above all in the assurances of temporary refuge contained in the Comprehensive Plan of Action. As we have stated on many occasions, including at the Kuala Lumpur Preparatory Meeting for this Conference in March, an international commitment to the principle and practice of first asylum and to the humanitarian treatment of all asylum seekers in Southeast Asia must be a basic objective of this Conference. For my Office it is the fundamental starting point of this important international exercise. If tragedy is again to be averted in Southeast Asia and the principles of international protection safeguarded, asylum must be provided, without exception, to all who seek it, so that their claims to refugee status can be properly evaluated and determined and subsequent appropriate solutions sought.

Mr. President, my office is acutely aware of the heavy burden imposed upon countries of first asylum by a seemingly endless and even swelling tide of asylum-seekers, and of the serious domestic problems that the influx can cause for governments in the region. In recent weeks, a situation of acute crisis has emerged in Hong Kong, where some 18,000 asylum-seekers have arrived at a rapidly accelerating rate so far this year. In other parts of the region, average arrival rates have been running well above their equivalents for 1988. The total population of boat refugees from Vietnam has risen sharply from some 31,000 in 1986, when there was widespread hope that the exodus may have been reaching an end, to some 89,000 at the present time.

In the face of an influx of these proportions, concern has been widely voiced by both countries of first asylum and resettlement, and much emphasis has been placed on the need to bring clandestine and disorderly departures from Vietnam under control. We are as concerned as States that the international refugees structures should not be exploited and overloaded by nonrefugees, however humanly understandable their wishes to seek better lives may be. This is a problem by no means unique to Southeast Asia but one which increasingly affects the rest of the world and which has to be globally addressed by speedy, fair and efficient procedures to determine those who are properly of concern to the international community. The temptation to short-circuit this process by arbitrarily denying asylum or by harsh measures of treatment equally intended to dissuade further arrivals, is not the way to achieve this. Such measures are not only both inhumane and ineffectual but may also have a far-reaching and disastrous impact on the situation in the region and, by inevitable extension, on the rest of the world. In this context, we must also not lose sight of the fact that the right of freedom of movement is one which has been fought for, and strongly defended, by the majority of States for many years. The right freely to leave one's own country and, if necessary, to seek asylum in another, is a basic, internationally endorsed right which has been formally enshrined for more than four decades in one of the earliest proclamations of the United Nations. In recent years, and even months, we have seen some of the major impediments to this freedom being removed in other parts of the world. We must be extremely careful, in our anxiety to resolve a prolonged refugee problem such as in Southeast Asia, that in doing so we do not give encouragement, whether wittingly or unwittingly, to the restoration of such impediments. There are a range of other measures which are both acceptable and viable, even if politically more difficult, to address the underlying causes of refugee movements.

My Office fully endorses efforts to bring about a reduction in unauthorised departures from Vietnam through the widening and administrative improvement of the Orderly Departure Programme. We also support plans to give extensive publicity in countries of origin and abroad to procedures for departure through regular channels, to the dangers of clandestine departure, to the new arrangements for the determination of refugee status in countries of first asylum and to the limitation of third country resettlement programmes to those determined to be refugees. Particular grounds for optimism have been found in the considerable expansion of the Or-

derly Departure Programme that has occurred in recent months and in the constructive approach taken by the Vietnamese authorities in discussing further enlargement and administrative improvements. While, some 13,000 persons left Vietnam through this authorised channel in 1987 and some 21,000 in 1988, over 16,700 have left in the first 5 months of 1989. We are confident that continued expansion and facilitation of this programme will continue to be achieved and trust that it will eventually include all categories mentioned in the Comprehensive Plan of Action, thereby becoming a fully viable alternative to clandestine departure from Vietnam. While measures taken or planned have not yet had an impact on the outflow from Vietnam, which has increased sharply in the pre-Conference period, it is our firm hope that, as an integral part of the set of new arrangements foreseen under the Comprehensive Plan of Action, they will play a significant role in bringing about a marked reduction in the clandestine exodus.

Mr. President, there have, in recent years, been increasingly widespread expresisons of concern that third-country resettlement has itself become a stimulus to the exodus from Vietnam of persons who may not qualify for refugee status in accordance with generally accepted international criteria. At the same time, there has been an inevitable and increasing reluctance on the part of the international community to accept the responsibility for providing asylum and durable solutions to those whose departures from their countries of origin are not connected with refugee status. It has, therefore, been necessary to envisage the introduction throughout the Southeast Asian region of systematic determination procedures so as to ensure that those with valid grounds for refugee status have that status promptly recognized and benefit from the required international protection and durable solutions.

It is of paramount importance to my Office that all asylum-seekers without exception have access to these procedures, that uniform standards be applied throughout the region and that procedures be carried out in full accordance with internationally accepted criteria. In the process of consultation leading up to this Conference and notably in the work of the Coordinating Committee and its subcommittees, we have been impressed with the seriousness of the approach of the first-asylum countries to this fundamental and difficult question. Without underestimating the complexity of the issue, which will require considerable additional financial and staffing resources from UNHCR in order to carry out the required training, monitoring and advisory functions, we believe that the commitment shown by these countries in developing determination procedures augurs well for the success of this undertaking. Nevertheless, the ultimate proof of the new arrangements will lie not so much in the procedures themselves, important though these may be, as in the application of the criteria for the recognition of refugee status. My Office would wish again to emphasize the importance of these being applied in full accordance with the spirit of the Comprehensive Plan of Action.

The introduction of eligibility determination procedures for all new arrivals in the region raises the question of solutions for those not recognised as refugees. This is an issue of great concern to countries of first asylum, which are anxious not to be left with a residual burden of rejected cases, and one which has been the subject of much intense debate during the preparations for this Conference.

I believe that the Comprehensive Plan of Action is clear on this point. Those determined not to be refugees should in principle return home and all efforts should be made to ensure, in the first instance, that return is on a voluntary basis. For my Office, this issue is also clear. Should persons be determined not to be refugees under procedures and criteria which are internationally acceptable, they are not legally within UNHCR's competence or its statutory responsibilities. Nevertheless, as stipulated in the Comprehensive Plan of Action, my Office stands ready to continue to provide humanitarian assistance and to promote durable solutions on a "good offices" basis. The Logic of our common endeavours over the past 15 years indicates that we should pursue our cooperation with the international community in seeking appropriate and humane solutions for the victims of the longstanding regional crisis in Southeast Asia. It is our strongly held view that the same humanitarian principles that the international community has striven to hold in addressing the Indo-Chinese refugee question in the past should con..nue to guide our efforts until the problem is definitively resolved by an overall regional settlement. Any other, less humane or less principled approach may well call into question and indeed render impossible the participation of UNHCR.

In addressing the question of the return of those determined not to be refugees or of other voluntary repatriants to their countries of origin, arrangements under which they can return home in conditions of nonrecrimination, safety and dignity are of crucial importance. On December 13, 1988, my Office and the Government of Vietnam signed a Memorandum of Understanding covering procedures for the

return, reception and reintergration of voluntary repatriants. To date, two groups totalling 143 Vietnamese nationals have returned home voluntarily from Hong Kong under the provisions of this agreement and individual cases have also repatriated from other locations in the region. The reintegration of these returnees is being closely monitored by UNHCR and we are pleased to report that it has been carried out in full accordanace with the terms of the agreement. There have also been encouraging recent developments in the voluntary repatriation programme for Lao refugees and asylum-seekers in Thailand, whereby the Government of the Lao People's Democratic Republic has agreed to accept the return of 150 persons each month and, given the necessary assistance, to increase its acceptance quotas progressively. Nevertheless, despite these limited successes, the numbers who have so far volunteered to reutrn home are greatly overshadowed by new arrivals reaching countries of first asylum or, in the case of the Lao, by the large camp populations for whom solutions are yet to be found.

In order to make a significant impact, voluntary repatriation will need to be vigorously promoted through a series of interrelated measures, including counselling of rejected cases, appropriate educational programmes, individual or group incentives and expanded reintergration assistance for returnees. May I add in this last respect, and in the light of experience gained in other refugee situations that there could be no more promising ingredient for the promotion of voluntary return than the extension of assistance and related incentives to include communities of origin. I would like to assure you, Mr. President, that my Office stands ready to play to the fullest possible extent, and in full collaboration with appropriate intergovenmental and nongovernmental organizatons, its role in the promotion of repatriation and the provision of humanitarian assistance, including that directed to facilitating the reintegration of returnees. We believe that the success of such efforts should not be negatively prejudged in the climate of tension surrounding current high arrival rates.

Even given the success of efforts to promote and implement durable solutions, an interim period in first-asylum camps is a reality that will stil have to be faced by asylum-seekers, refugees and rejected cases. I wish to stress how important it is that living conditions provided both for those awaiting determination of refugee status and for rejected cases take full account of the dignity and human needs of those involved. The imposition of harsh living conditions, in addition to being unacceptable in humanitarian terms, can have far-reaching effects on the physical and psychological health of asylum-seekers. It can, moreover, greatly complicate the pursuit of durable solutions by creating at both individual and group levels problems that are difficult to overcome in either a resettlement or reintegration situation and thus have precisely the opposite effect from that intended by those who may introduce them in an effort to deter arrivals and induce repatriation.

To continue to provide durable solutions to those recognised as refugees and to the population of Vietnamese boat people already in the region before the introduction of the various cutoff dates after which detemination is to be applied, a renewed commitment to the provision of resettlement places is essential. My Office hopes that a concerted effort by the international community will make it possible to clear camps in the region of all refugees who arrived before the cutoff dates within a three year period. While such a time-frame may seem short, it is imperative that no further time be lost as many refugees have long been awaiting solutions under conditions which are frequently difficult and sometimes harsh and inhumane, and as severe pressures on both public opinion and physical infrastructure in first asylum countries have been generated by the recent influx of new arrivals. May I therefore take this opportunity to underline my recent appeal to resettlement countries to increase their respective intakes and to liberalize their criteria so as to take account of the more difficult cases among the population of "long-stayers," and to ask governments concerned to give this matter their most urgent attention. May I also urge the rapid resettlement of those recognised as refugees under the determination procedures being established in the region.

Mr. President, certain crossroads are of particular historic significance. At them, the destiny of millions of human beings is at stake. And at them occur those awe-inspiring moments when as individuals or collectively, as the international community, we have no right to fail. Such was 1979. Such again, and may be even more so, is today. It is essential that the efforts undertaken over the last 15 years to solve the Indo-Chinese refugee problem be pursued with determination, persistence and a sense of continuity. Since 1975, 2 million persons have found new homes. Others, who are comparatively few in number, expect to receive the support to which their dignity as human beings entitles them. The Comprehensive Plan of Action place this goal within our reach. It will only be attained, however, if universal humanitarian principles are respected. It is therefore vital that the consensus achieved in

Kuala Lumpur be preserved. Even more important is it to sustain, in endorsing the Comprehensive Plan of Action, the spirit in which that earlier consensus was reached. Any holding back would jeopardise its implementation. We now find ourselves again at that elusive point where inviolable principles and the legitimate interests of states coincide. The preservation of that convergence is the key to the success of our efforts. No-one has the right to disturb the balance that has been attained without inccurring a heavy responsibility before the judgement of history. Let us unite in accepting the challenge of making the Comprehensive Plan of Action succeed. Therein lies the only worthy and realistic path to be followed by those who refuse to resort to expedients which would inevitably entail unacceptable consequences in the region and throughout the world. The struggle and sacrifice that have been devoted over the last two centuries to winning respect for human rights forbid us to take any other path.

Thank you, Mr. President.

APPENDIX III

UNITED NATIONS INFORMATION SERVICE,
UNITED NATIONS OFFICE,
Geneva, June 13, 1989.

[Press Release REF/1632]

INTERNATIONAL CONFERENCE ON INDOCHINESE REFUGEES OPENS IN GENEVA

The International Conference on Indochinese Refugees opened this morning, Tuesday, June 13, at the Palais des Nations in Geneva. The aim of the 2-day Conference, which has been organized by the Office of the United Nations High Commissioner for Refugees, is to reach agreement on a new, comprehensive approach to the problem of Vietnamese boat people. The Conference is also expected to address the problem of refugees and asylum-seekers from Laos but not that of the refugees and displaced persons from Kampuchea which is being dealt with in a different framework.

The International Conference is the second one on the topic of Indochinese refugees. The first conference was convened 10 years ago, in July 1979 in Geneva. During that Conference the coastal states of the region had agreed to provide first asylum to Indochinese refugees while countries outside the region undertook to make resettlement places available. The Conference also endorsed the Programme for Orderly Departure from Vietnam in order to provide a safe alternative for persons wishing to leave Vietnam for countries of new residence.

The present Conference has before it an eight-point Comprehensive Plan of Action (CPA) which had been drafted in response to the recent crisis which is gaining dramatic proportions since 1986. The eight interrelated elements of the Plan deal with clandestine departures, regular departure programmes and reception of new arrivals, refugee status, resettlement, voluntary repatriation, Laotian asylum-seekers, and implementation and review procedures.

The International Conference was opened this morning by United Nations Secretary-General Javier Pérez de Cuéllar, who recalled that the convening of a second conference on the same humanitarian problem that had existed 10 years ago was "a sad measure of the inability of the international community to address and resolve the root causes of mass displacements of persons, which have marked this century." He hoped that all the values upheld and all resources represented at the conference could be combined in the search for a truly comprehensive and lasting solution to the plight of the Indochinese refugees and displaced persons.

The Conference elected Mr. Dato' Abu Hassan Omar, Foreign Minister of Malaysia, as Chairman of the Conference. It adopted the provisional agenda contained in document A/CONF. 148/1 and organized its work according to recommendations put forth in document A/CONF. 148/3. The Conference elected Mr. Kjell Borgen (*Norway*), Mr. Lawrence S. Eagleburger (*United States of America*), Mr. Gareth Evans (*Australia*), Mr. Nguyen Co Thach (*Vietnam*) as Vice Presidents of the Conference.

In the general debate that followed, statements were made by the United Nations High Commissioner for Refugees, representatives of Australia, Vietnam, Japan, Philippines, United States of America, Norway, Malaysia, Singapore, Switzerland, Austria, Thailand, Indonesia, Canada, United Kingdom, France, China, Netherlands, Lao People's Democratic Republic, Sweden, and the Holy See.

The Conference will meet again on Wednesday, June 14, at 10:00 a.m., to continue its general debate.

OPENING STATEMENT BY THE SECRETARY-GENERAL OF THE UNITED NATIONS

In his opening statement the Secretary-General of the United Nations, Mr. Javier Perez de Cuellar, said that the convention of an international conference to deal essentially with the same humanitarian problem that had existed a decade ago was a sad measure of the inability of the international community to address and resolve the root causes of mass displacements of persons which have marked this century. The analysis of the problem and the solution devised in 1979 were bound to become

outdated and insufficient, since the very nature of the problem itself had changed. Hence, the General Assembly had welcomed and endorsed the call of the ASEAN foreign ministers for the convening of a conference in order to forge a new international consensus on this long-standing humanitarian problem.

Mr. Javier Perez de Cuellar called on Governments to exercise restraint and to resist the temptation of tackling the problem unilaterally. No issue of this kind, he stressed, could be successfully and durably resolved in isolation. While developments in recent weeks might have created a sense of urgency, caution should be exercised so as not to expect instant solutions to complex and deeply rooted problems. The international agreements and understandings on various conflicts reached over the past 2 years, many of them affecting refugees, had been the result of patient and prudent negotiations and multilateral diplomacy.

He commended the improvement in relations between Laos and Thailand which could promote a climate of confidence in the treatment of humanitarian questions. Moreover, he noted that there were encouraging signs of progress towards the settlement of the Kampuchean conflict in Southeast Asia. He offered to extend his assistance to the parties that might require it in the formulation and implementation of a solution to the Kampuchean problem. He then stressed that care should be exercised and fair international mechanisms found to forestall illegal departures and encourage orderly migration movements, while preserving the universal respect for—and preventing the abuse of—the principle of asylum. The Conference on Indo-Chinese Refugees and the followup to it were a major and early test of our ability to meet such growing challenges in a responsible and effective manner, stated the Secretary-General.

STATEMENT BY CONFERENCE CHAIRMAN

Mr. Dato' Abu Hassan Omar, Minister of Foreign Affairs of Malaysia, following his election as Chairman of the international conference, said that although a decade had passed by, the continuing influx of Vietnamese boat people into countries of first-asylum still continued. It behooved the international community, therefore, to seek a fresh approach and a quick solution to the problem so that a comprehensive and workable solution could be found to remove not only the burden of first-asylum countries but also prevent any further misery suffered by the asylum-seekers. In his view, the conference should address three basic issues; namely, the early removal of the burden placed on the first asylum countries; the full commitment of the country of origin to take effective measures to prevent clandestine departures, to expand orderly departures, and to accept the return of those determined to be nonrefugees; and the continuing commitment of third countries to readily and quickly resettle all refugees.

One could never overemphasize the burden placed on the first asylum countries arising from the continuous influx of the Vietnamese boat people. For the period between 1979 and 1988, nearly half-a-million refugees had landed on Southeast Asian shores. This had brought about problems that had put strains on the political, economic and social fabric of the countries concerned. This Conference therefore should address itself to solving these problems which the countries in the Southeast Asian region have shouldered for far too long.

He hoped that Vietnam, the country of origin, would also work closely with all countries, including UNHCR, to stem the outflow of people from its shores. Vietnam's renewed commitment to work in accordance with the principles set out in this arrangement would certainly be viewed as a positive contribution.

SUMMARY OF STATEMENTS OF GENERAL DEBATE

Jean-Pierre Hocké (*United Nations High Commissioner for Refugees*) stated that the past year had been marked by an intensive series of multilateral consultations with countries of origin, of first asylum and of resettlement which had been conducted in an effort to find a new comprehensive and solution-oriented approach to the Indo-Chinese refugee problem. The draft *Comprehensive Plan of Action* that was now before the Conference embodied the results of that process. It attempted to address and reconcile a range of complex political, diplomatic, legal and humanitarian issues, not all of which were easily reconcilable. He appealed to resettlement countries to increase their respective intakes and to liberalize their criteria so as to take account of the more difficult cases among the population of "long-stayers," and asked governments concerned to give this matter their most urgent attention. He also urged the rapid resettlement of those recognized as refugees under the determination procedures being established in the region. It was essential that the efforts undertaken over the last 15 years to solve the Indo-Chinese refugee problem be pur-

sued with determination, persistence and a sense of continuity. Since 1975, 2 million persons had found new homes. Others, who were comparatively few in number, expected to receive the support to which their dignity as human beings entitled them.

Gareth Evans QC (*Australia*) noted that Australia's principal response had been in the area of resettlement. Since 1975, Australia had accepted nearly 120,000 Indo-Chinese refugees. The cost to the Australian community had been some $700 million, in present day terms, for initial transport and settlement expenses alone. At the same time, it seemed clear to his delegation that the nature of the outflow from Indochina had changed. The resettlement strategy adopted 10 years ago, which was designed to provide a generous and humanitarian response to genuine refugees, was no longer a complete solution. Indeed, it had in a sense become part of the problem. The Australian Government believed that the recognition of the changes in the nature of the outflow had been at the center of the international community's endeavours to develop a Comprehensive Plan of Action over the last 12 months. The Comprehensive Plan did not close the door on genuine refugees. In commending the adoption of the Comprehensive Plan of Action to the conference, he reinforced that the international Community could not just selectively agree to one or two of its components, without fully agreeing to all its other parts. Australia would take up to 20 percent of the pre-cutoff date populaton. This commitment was, however, conditional upon all other parties to the Comprehensive Plan doing their fair share.

Nguyen Co Thach (*Vietnam*) stated that the phenomenon of emigration and refugees were closely associated with major upheavals in the world such as war or change in sociopolitical systems, but their man cause was to be found in economic difficulties. Vietnam, he said, was the only country in the world to have been torn by constant wars from 1940 until present, by frequent natural disasters and by a continuous economic blockade. These major upheavals have resulted in serious economic difficulties and numerous complex social problems. Vietnam had closely cooperated with the High Commissioner for Refugees in implementing the seven-point programme of orderly departures. However, given the limitations of that programme, it had not been possible to respond to all persons wishing to live in other countries. Therefore, there had been an increase in the number of illegal departures. Vietnam was not in favor of illegal departures. For this reason, Vietnam encouraged legal departures, on the one hand, and had taken many measures to put an end to illegal departures, on the other hand. Vietnam has been holding negotiations with the countries of first asylum, such as Malaysia, Thailand, and authorities in Hong Kong since 1988 and has reached agreements which allow the voluntary repatriation of refugees. Recently the first groups of repatriated refugees had arrived in Vietnam. His country believed that a constructive means for ending illegal departures could be found in economic aid to those regions which were faced with the most serious economic difficulties. He called on the international community for such assistance.

Naoki Tanaka (*Japan*) stated that the Japanese Government had consistently participated in the interntional efforts to solve the Indo-Chinese refugee problem since the earliest stages. Japan's cooperation in the field of the Indo-Chinese refuge problems basically consisted of refugee resettlement, first-asylum measures and financial cooperation. In spite of domestic difficulties, Japan has been steadily accepting refugees for resettlement. There are now 6,070 refugees resettled in Japan, and Japan ranked sixth in the world in terms of the number of refugees accepted for resettlement in the last 3 years. Japan had contributed about 50 percent of the total requirement of UNHCR's General Assistance Programmes for Indo-Chinese Refugees since 1979. Since then Japan's financial cooperation for refugees and displaced persons in this region had reached $650 million. Moreover, the Japanese Government would contribute approximately 11 million U.S. dollars to the UNHCR's Indo-Chinese General Programmes. The Japanese Government was also ready to provide vocational training to facilitate repatriation of boat people given temporary asylum. Japan intended to play a yet greater role in the solution to the refugee problem, both as humanitarian action and from the viewpoint of cooperation for peace. The Japanese Government believed that the only way to solve the problem was through the effective implementation of the Comprehensive Plan of Action by a united international community.

Raul S. Manglapus (*Philippines*) said that the Philippines today was in a state of transition; and like all nations in that state it needed to continue to vanquish threats to is stability and to reconstruct its economy. It was difficult to add to these burdens a substantial response to the international refugee challenge. However, his Government was willing to host the proposed regional resettlement center for refugees in first-asylum camps, subject to some conditions; among them, that a firm and formal guarantee be given to the Philippine Government by resettlement countries,

that the center be cleared within 3 years, that Vietnam host a counterpart regional holding center for "screened outs" or those determined not to be refugrees, that a ceiling or maximum number of refugees to be accommodated in the center be determined, and that the Philippine Government will not expend any national funds to set up and maintain the center.

Lawrence S. Eagleburger (*United States of America*) stated that until Vietnam reformed its system, the exodus of Vietnamese would continue. The task before the Conference was to deal as humanely and effectively as possible with this inescapable reality, building upon the many accomplishments that had been realized since the 1979 Conference. He said that the Conference should unequivocally reaffirm the practice of first asylum; address the very real and legitimate concerns of those nations which have sheltered asylum seekers; ensure that the means for direct and orderly departure are available as alterntives to hazardous escape; and provide for the dignified and safe return to their country of origin of those people who freely choose to return. He then called on Vietnam to initiate reform that would encourage Vietnamese people to remain in their cities and villages, and to make orderly departure programmes truly viable by agreeing to an initial target of at least 6,000 orderly departures per month. The United States, he said, would remain unalterably opposed to the forced repatriation of Vietnamese asylum-seekers. The United States would assist in alleviating the burden that long-staying refugees pose for the countries of first asylum. Similary the United States would assist in the resettlement of those new arrivals determined to be (more) refugees and would anticipate accepting up to 50 percent of that refugeee population.

Kjell Borgen (*Norway*) noted that the Plan of Action was like a card-house, where all the elements were carefully interrelated. If one element was taken away, the whole plan would fall apart. The basis element in the plan was to halt the irregular departures from the contry or origin. Another very important part of the Comprehensive Plan of Action was that all asylum-seekers from the region now would be subject to status determination. It was imperative for the implementation of the Comprehensive Plan of Action that all asylum-seekers, regardless of the mode of arrival, would have access in the region to status determination. This should of course also include those rescued at sea. Introduction of screening of all asylum-seekers in Southeast Asia would be a demanding task for the countries of first asylum and the High Commissioner. Norway had already offered its contribution both financially and in terms of personnel. Norway fully supported the plan's voluntary repatriation. Every effort should be made to ensure that those returning would be fully integrated into their society and assisted in this process. Voluntary repatriation, followed by durable regional solutions, were the most appropriate means to deal with refugee situations.

Datuk Ahmad Kamil Jaafar (*Malaysia*) stated that the patience of Malaysia had been tested too long. The inadequacy of a workable international mechanism, the lack of priority and commitment by Vietnam, the slow and often tedious process of resettlement had exacerbated the situation in his country. His delegation was of the view that the Conference should call upon Vietnam, as the country of origin, to take all necessary measures to prevent clandestine departures and at the same time facilitate the expansion of the Orderly Departure Programme making it the only channel or exit from Vietnam. Moreover, Vietnam should be held responsible for its own citizens and must agree to accept the return to Vietnam of all those determined to be nonrefugees, whether voluntarily or otherwise. Resettlement countries should make a clear commitment to resettle all pre-cutoff date camp population in countries of Southeast Asia and those determined to be refugees who arrive after the cutoff date. A regional holding center should be established. He stressed that the problem should be resolved urgently and within a definite time frame.

Wong Kan Seng (*Singapore*) said he found it extremely strange that in the discussions and deliberations that had gone into elaborating the Comprehensive Plan of Action, the role of the one country that had persistently refused to accept responsibility for its own citizens had been relegated to an almost peripheral issue. Vietnam had been gingerly wooed to contribute, as a favor to the rest of the world, to the solution of a problem that it was solely responsbile for creating. The problem originated from Vietnam, but Vietnam had not made any definite commitment to stop the outward flow of its citizens. It had made no categorical commitment to take back all of its citizens who have been determined not to be refugees. The Indo-Chinese refugeee tragedy was created and sustained by deliberate acts of omission and commission. Together with a just and durable settlement of the Cambodian problem, Vietnam's sincerity in taking responsibility for the Indo-Chinese refugee problem and contributing to a durable solution, within a definite timeframe, would be crucial factors in the shaping of the future bilateral relationships between Vietnam

and the ASEAN countries, and in ensuring reintegration of Vietnam into the international community.

René Felber (*Switzerland*) recalled that the collective effort, which had followed the convention of the 1979 International Conference, had mad possible to reach a lasting solution for more than 1,600,000 persons. Switzerland also had contributed to that effort by receiving 10,000 of those persons and by granting humanitarian aid to countries of first asylum. Today, the Comprehensive Plan of Action reflected the will to maintain the principle of asylum while regulating the immigration of those who left their home country for other reasons. Switzerland and other Western European countries have been faced with this problem throughout the 1980's. It was a very difficult task to distinguish between individuals escaping human rights violations and those who left their country for other reasons. It was necessary to find the delicate balance between generosity and the control that every state was to exert in dealing with migratory currents. Switzerland was willing to continue its humanitarian aid to countries of first asylum and to offer additional places to refugees in response to the appeal launched by the United Nations High Commissioner for Refugees.

Erik Nettel (*Austria*) said his country regarded the Comprehensive Plan of Action as a set of mutually reinforcing humanitarian undertakings, which should be implemented in their totality rather than selectively. In the interest of safeguarding human lives, clandestine departures should be reduced to a minimum and alternative regular departure procedures and migration programmes should be encouraged and promoted. Those who still leave clandestinely should be given the possibility to seek asylum as the notion of first asylum was a very important issue which should be respected and, where necessary, restored. On the assumption that the Comprehensive Plan of Action would be adopted by the Conference, Austria was prepared to cooperate in its implementation by accepting 300 persons as proposed by UNHCR for settllement in Austria within the next 3 years, giving priority to pre-cutoff date cases. With the introduction of a status determination process the question of the fate of those not recognized as refugees was obviously posed. The plan rightly encouraged the voluntary return of such persons. In accordance with international practices, their country of origin should continue to be responsbile. Laos was accepting this responsibility and he hoped that Vietnam would do the same.

ACM Siddhi Savetsila (*Thailand*) stated that over the years, the nature of the Indo-Chinese outflow had taken on an increasingly migratory character. His delegation did not seek at the conference to deny the right of people to seek ayslum, but rather the understanding of the reality that automatic granting of asylum would be difficult in situations of mass influx. Countries providing temporary refuge could not be left to bear the brunt of the burden. The political, social, economic, and security costs were too high. In the view of his delegation, a comprehensive and durable solution to the Indo-Chinese refugee an asylum-seeker problem should incorprate these essential elements: effective measures to curb illegal departures; effective expansion of the Orderly Departure Programme; resettlement of present camp populations within a specific timeframe; safe reception and determination of refugee claims of all new arrivals; resettlement of those determined to be genuine refugees within a specific timeframe; repatriation of all nonrefugees to their country of origin. Thailand for her part was ready to fully live up to her obligations as prescribed in the plan. But cooperation was required from all concerned to make the plan lasting and effective, because the measures contained in the CPA were all interrelated and could not be selectively implemented.

Ali Alatas (*Indonesia*) stated that it was clear that the understandings reached at the 1979 Conference had been superseded by events and that a more comprehensive, effective, and durable solution should therefore be urgently found. This was the critical problem which the international community was facing and which the Conference should address. It was the view of the Indonesian delegation that these essential elements of a durable solution had been fully reflected and incorporated in the Draft Declaration and Comprehensive Plan of Action now before the Conference for consideration and adoption. The Comprehensive Plan of Action stressed the urgency for increased efforts toward resolving the problem at its source. Indonesia welcomed the cooperation that the Socialist Republic of Vietnam and the other countries of origin had shown in this respect. He called upon their governments to take even more effective measures in deterring clandestine departures, in expanding the current Orderly Departure Programme and in accepting the repatriation of those asylum-seekers who were determined not to be refugees. The assurances of continued and predictable resettlement of Indo-Chinese refugees, now temporarily accommodated in the countries of first refuge in Southeast Asia, was a vital component of the Comprehensive Plan of Action. The countries of temporary refuge and the

ASEAN countries in particular would, for their part, continue to make their active contribution to the comprehensive resolution of the Indo-Chinese refugee problem, in conformity with international humanitarian principles and in accordance with their sociopolitical and cultural traditions.

Barbara McDougall (*Canada*) said the Comprehensive Plan of Action tabled at the Conference accurately reflected the various options and approaches that were now possible. As a result, it represented a major breakthrough in the ability to respond to the changing requirements of the Indo-Chinese situation. The Plan was innovative, practical, and, above all, it was humane. The countries of resettlement should continue to bear their fair share of the burden. Canada was willing to do more if it could be certain that its contribution would be matched by others. To this end, Canada was proposing to accept a further 1,000 refugees from the "long-stayer" population over the next 12 months. It had been in response to the first great wave of Indo-Chinese refugees in 1979–80 that Canada had helped in assisting more than 60,000 Indo-Chinese refugees to rebuild their lives in Canada. These 60,000 Indo-Chinese refugees—along with a further 60,000 who followed in the past decade—had made a great contribution to their new homeland. Canada was more than willing to do its part. It would continue to provide financial assistance—some $67 million in 1988/89—to international humanitarian agencies. It would provide asylum to successful refugee claimants on its territory. It would provide unlimited opportunities for the private sponsorship of refugees selected abroad (more than 12,000 were sponsored in 1988, and an even larger number was expected in 1989). And, finally, it would offer up to 13,000 places for government-sponsored refugees from all parts of the world.

Sir Geoffrey Howe (*United Kingdom*) stated that the continuing outflow of people from Vietnam had long imposed an enormous burden upon Hong Kong. It had now become intolerable. Eighteen months ago, the number of Vietnamese in Hong Kong had been reduced to some 8,000. Then, dramatically, the trend had been reversed. The arrival rate had increased again this year, to the point where Hong Kong now had over 43,000 boat people and arrivals had numbered as many as 1,000 in a day. Hong Kong faced a major humanitarian crisis. It was, quite literally, impossible to cope with arrivals at this rate. Boat people were now having to be accommodated on ferries, in tents, or moored in their own boats, the scale of the problem was now such that it posed a serious threat to Hong Kong's stability—and all this at a time when events in China were for quite other reasons, causing the gravest anxiety in Hong Kong. The British Government welcomed and endorsed the Comprehensive Plan of Action. The genuine refugees—who should be resettled elsewhere—should be separated from the economic migrants. Tackling the refugee problem was not enough. The problem of the nonrefugees, which was even worse, had to be tackled. Vietnam should accept that no country has the right to export its surplus population to other countries. Vietnam should take effective measures to stem the outflow and agree to take back all nonrefugees, in safety and with dignity, and make adequate arrangements for those who do, as refugees, have settlement places waiting for them in the West to leave promptly under the Orderly Departure Programme.

Sir David Wilson (*Governor of Hong Kong*) stated that today there were over 43,000 Vietnamese Boat People in Hong Kong, by far the largest number in any territory in the region. Ten years ago it was quite clear that the people coming were genuine political refugees. Most were ethnic Chinese fleeing from what had been South Vietnam. But in recent years the people arriving have been different. Those coming to Hong Kong have mostly been Vietnamese from the Northern part of Vietnam. They were not the victims of a sudden change of political regime. They were seeking economic improvement and a better standard of living. The problem had also changed because since 1980 offers of resettlement have steadily fallen. Hong Kong and the countries of Southeast Asia had lived up to their side of the bargain by continuing to provide first asylum. The situation could not go on. Hong Kong could not continue to shoulder this burden. The solution needed to be made up of several parts; The unsafe, illegal departure of thousands of people should be stopped or drastically reduced. The countries of resettlement should be prepared to offer a programme of quick and effective resettlement for genuine refugees. A regional processing center, supported by international funding, should be set up from which refugees could move on to permanent homes in resettlement countries as soon as possible. The humane course was to set up, and set up quickly, practical arrangements for returning to their own country the people who are not refugees. This was not the view of the Hong Kong Government alone. Some of the voluntary agencies working in the camps in Hong Kong were increasingly seeing mandatory repatriation as the only humane answer to this problem.

Edwige Avice (*France*) stated that the Comprehensive Plan of Action was not profoundly different from the objectives which had been set 10 years ago. It seeked to dissuade illegal departures and it seeked to preserve the principle of asylum. However, the means and the methods of the Plan were new. The plan aimed to determine a refugee status which would allow to distinguish genuine refugees. The plan constituted a particularly complex whole, naturally imperfect, insufficient or ambiguous on some points, and excessive at others. She stressed that at all stages of the procedure to be taken up, humanitarian demands and the respect for human rights should be kept in mind. Mechanisms which allow the determination of the refugee status to be set up in countries of first asylum should be rapid, fair and respectful of human rights. The conditions of life in the refugee camps should be at an acceptable level. Moreover, the question of repatriation to country of origin should be dealt with extremely cautiously. France had accepted about 130,000 Indo-Chinese asylum-seekers since 1975 and would continue to extend her help to those persons in the future.

Qian Jiadong (*China*) said that the Comprehensive Plan of Action was an integral whole consisting of many links. In the view of this delegation, the two most important links were: first, the country of origin should undertake to reduce and stop the large-scale exodus and take effective measures to this end; second, the country of origin should take back, without any condition, its nationals that have been identified as nonrefugees through screening. His delegation was pleased to see that some countries involved in the resettlement plan had given the number of refugees that they were going to receive. The implementation of the Comprehensive Plan of Action would greatly contribute to alleviating the grim situation of the Indo-Chinese refugees at present. However, facts over the years have shown that the key to genuine and thorough solution to the question of refugees lied in the removal of the root-causes for the generation of refugees and asylum-seekers. Therefore, the country directly responsible for the exodus of refugees and asylum-seekers should immediately put an end to its policies that have caused the outflow of large numbers of its own nationals and those of neighboring countries and fulfill its obligations toward the international community.

Robert J. Van Schaik *(Netherlands)* said that the commitment of the international community to protect refugees and to give them a chance to build up a new life in other communities remained as firm as ever. What had changed, rather, was the composition of the outflow of people. In the early days of the exodus, it was justified to work on the assumption that all Indo-Chinese asylum-seekers could be considered as refugees. However, it has become increasingly difficult to continue to act on the basis of this assumption. His government believed that the draft Comprehensive Plan of Action had struck the right balance between the imperatives involved. The Netherlands, therefore, was ready to adopt the Comprehensive Plan of Action as it was. Whether the plan truly constituted progress, not only in thinking but also in reality, would depend on its implementation. One of the merits of the Plan was its comprehensive character. It imposed obligations on *all* the actors: the countries of origin, of first asylum, of resettlement and, very important, on UNHCR. Their undertakings were interdependent. Therefore, each of the partners in this joint effort would have to implement its part concurrently with the others, so as to ensure a proper balance. The Netherlands, on its part, would also take its share of the burden as a small resettlement country. His government was prepared to meet the High Commissioner's request for a contribution of 1,000 resettlement places, over a 3-year period.

Pone Mek Daloley *(Lao People's Democratic Republic)* stated that the solution to the problem under discussion could positively contribute to the achievement of a climate of peace, harmony and good-neighbourhood in Southeast Asia. His delegation expressed its concern for asylum-seekers arriving in countries of first asylum and stressed that authorities in those countries should take the necessary measure in order to ensure that asylum-seekers would not be subject to brutality, robbery or extorsion by organized groups or local officials. Moreover, he stressed that the criteria used for determining refugee status should not be used to encourage brain-drain or reverse transfer of technology to the detriment of the country of origin. The Government of the Lao People's Democratic Republic had adopted a highly humanitarian policy toward Laotian refugees and had encouraged and facilitated both the resettlement and repatriation of those refugees. As of May 1989, his government would accept the regular repatriation of 150 to 300 persons per month. He hoped that the United Nations High Commissioner for Refugees and the international community would offer their assistance in the heavy task associated with such repatriation policy.

Bo Göransson *(Sweden)* said Sweden supported the objectives of the Comprehensive Plan of Action which took into consideration all important aspects: the countries of origin, the countries of first asylum and the countries of resettlement. Sweden would therefore join a consensus on the Draft Declaration and the Plan of Action. The Swedish Government was prepared to make its contribution towards sharing the burden that the Plan of Action entailed. The Nordic countries were together prepared to work toward receiving some 4,000 persons from Southeast Asia during the coming 3-year period. This commitment was subject to certain conditions. In particular, those potential resettlement countries, who until now had done less, were expected to take their share and make their contribution toward a solution of this situation. The problem of refugees and other movements of people should be tackled within a broad concept of development needs and priorities, particularly if one was to come to terms with root causes. His government was aware of the difficulties which the Government of Vietnam had been facing in rebuilding the country. Sweden had sought to assist Vietnam in its difficult task. Sweden intended to continue the development cooperation with Vietnam and hoped that also other Governments would find it possible to start or continue cooperation in this regard.

Mgr. Justo Mullor *(Holy See)* called on all nations represented at the conference to discuss and examine questions regarding Indo-Chinese refugees to keep in mind the fact that they were talking about life and human rights and not only about masses of anonymous individuals. The long-term security of those people depended on decisions taken here. He underlined a few points that his delegation felt that needed further reflection: persons seeking asylum had to be treated in an equitable and humane manner in the country of asylum. Resettlement possibilities should be offered to all persons who were recognized as refugees. The Catholic Church, for its part, was studying the possibility of obtaining additional resettlement places as a part of an important initiative. It would be desirable that all traditional countries of resettlement increased their admission quotas. It would also be desirable for other countries to accept at least some small numbers of refugees for resettlement. He stressed that forced repatriation programmes would be unacceptable. No lasting solution to the present situation could be achieved without due respect of fundamental human rights of Indo-Chinese refugees.

APPENDIX IV

Excerpts From 1984 Subcommittee Staff Report on "Refugee and Migration Problems in Southeast Asia"

(The following are excerpts from the summary of findings and recommendations of a subcommittee staff report on "Refugee and Migration Problems in Southeast Asia" issued to the Senate in August, 1984.

This report, as well as an earlier staff report in 1981, referenced in these excerpts, were the first to underscore the changing character of the refugee flow from Indochina and the need to find alternative solutions to move third-country resettlement. Considered controversial by many at the time, the three inter-related points outlined in this report—the need to screen out nonrefugees; to provide for repatriation as well as resettlement; and open new opportunities for legal departures—could be read today as the mirror image of those adopted in Geneva in 1989.

The 1981 report was written by the then subcommittee staff director Richard Day and minority counsel Jerry Tinker; the 1984 report excerpted below was submitted by Mr. Tinker as minority counsel.)

Refugee and Migration Problems in Southeast Asia

I. SUMMARY OF FINDINGS AND RECOMMENDATIONS

Sadly, the United States and the international community continue to face a complex set of humanitarian and foreign policy issues in Southeast Asia today—nearly a decade after the war in Indochina ended. Worst still, they have hardly changed in recent years, largely because hostilities have continued in many areas and new humanitarian problems have grown in the aftermath of the war. These have been outlined in repeated reports to the subcommittee over the last decade.[1]

Although there has clearly been substantial progress in the last several years in meeting the many humanitarian emergencies that have developed in the region since 1975--especially in responding to the "boat people" crisis in 1979–80—the underlying problems and dilemmas remain largely unchanged.

First, the outflow of people, particularly "boat people" from Vietnam, has hardly diminished from last year—although the flow is markedly down from earlier peak periods. If present estimates continue, the flow rate from 1983 to 1984 will be down by less than 10 percent. Thus, for every 10 Vietnamese "boat people" the United States and other countries resettled last year, 9 more came out this year to take their place. Next year threatens the same trend. If direct departures through the Orderly Departure Program are included in the figure, the total outflow has in fact increased—and these do not take into account the continuing Laotian and Khmer refugee populations in Thailand.

The subcommittee's last staff report warned that "we have reached a critical stage in addressing the humanitarian and refugee problems in Southeast Asia." We

> either drift along on our current course, with *the danger of institutionalizing an on-going refugee/migrant flow,* or we join with others in the international community in undertaking new initiatives and new approaches to deal with both the continuing movement of people from Indochina, as well as the root causes of this continuing flow.[2] (Emphasis added.)

Regrettably, these is little evidence since then that the United States, other resettlement countries or, more importantly, the United Nations High Commissioner for Refugees, has seriously undertaken the sustained diplomatic and other efforts neces-

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[1] See "Aftermath of War: Humanitarian Problems of Southeast Asia: 1976"; Subcommittee on Refugees, Committee on the Judiciary, U.S. Senate, May 17, 1976; "Humanitarian Problems in Southeast Asia: 1977-78," a study mission report to the Committee on the Judiciary, March 1978; "Refugee and Humanitarian Problems in Vietnam," Hearing, Committee on the Judiciary, August 22, 1978; and "Refugee Problems in Southeast Asia: 1981", *op. cit.*

[2] "Refugee Problems in Southeast Asia: 1981", op. cit., p. 33.

sary to find alternatives to our reliance on massive third-country resettlement as the solution to the Indo-Chinese refugee and migration problem.

Indeed, there is now mounting evidence that we may have already "institutionalized an on-going refugee/migrant flow."

An attitude has also developed that as long as there are offers of third-country resettlement, new arrivals can and should be able to claim them. There is little incentive for all parties involved—ASEAN countries, UNHCR, voluntary agencies—to do otherwise as long as numbers are available and "ceilings" merely become "quotas" to be filled. The machinery to fill them is in place and well-oiled.

This dedication and efficiency in accomplishing third-country resettlement was commendable when the persons coming forward were nearly all refugees—who also had strong claims upon the "humanitarian concern" of the United States.

What started out between 1975–81 as a genuine refugee flow, has slowly but clearly shifted to a migratory flow now composed of some refugees, a growing number of family reunification cases, and an ever larger economic migrant component. Unless the international community, and particularly the UNHCR, comes to grip with this fundamental shift—unless we find alternatives for coping with this migration—we are likely to see a sad and unfortunate end to what has been, to date, a very generous and important international humanitarian effort to resettle refugees.

We will also likely see the door closed to those *bona fide* refugees who may come out in the future. If we cannot, or do not, separate refugees from those in the growing migratory stream, we will likely see a backlash to the program emerge and resettlement offers end.

And the issue of equity will also grow. Today, hundreds of thousands of legal immigrants are currently standing patiently in line around the world, waiting to join their U.S. citizen relatives in the United States. They will understandably ask why brothers and sisters—much less cousins—from Vietnam or Laos can enter the United States to join their families after only a few months, while the brothers and sisters of Philippino-American or Mexican-American citizens must wait up to 5 to 9 years. It is acceptable *if* they are refugees. If they are migrants, that is another matter.

In short, we must urgently act to both protect the integrity of our special refugee admissions program, as authorized under the Refugee Act, as well as protect the future acceptance of *bona fide* refugees of special humanitarian concern to the United States. Now, more than ever, we must seek ways to separate and cope differently with the refugee and nonrefugee components of the on-going migratory flow from Indochina.

If we are to end the drift in our current course, we must give renewed priority and attention to the recommendations outlined in the subcommittee's 1981 report:

(a) Maintenance of adequate humanitarian assistance to meet the relief and rehabilitation needs of refugees, displaced persons, and others in need in Southeast Asia;

(b) Protection of *bona fide* refugees and provision for their resettlement in third countries;

(c) Safe and secure repatriation, under UNHCR auspices, for those who can return to their native countries;

(d) Local settlement for those whose best interest is served by remaining where they are, with appropriate assistance from the UNHCR and donor countries;

(e) Full implementation of orderly departure programs for those who seek to leave the countries of Indochina, especially family reunion cases from Vietnam;

(f) Support for renewed diplomatic efforts to resolve the conflict that is the source of much refugee movement, especially from Cambodia; and

(g) Improved relations with the countries of Indochina in order to deal directly with them in implementing orderly departure programs and in resolving problems that contribute to the flow of people, perhaps including postwar rehabilitation and reconstruction efforts, if appropriate.[3]

1. Coping with refugee and migration flows from Indochina

It must be emphasized at the outset that there are still many thousands of refugees fleeing the countries of Indochina—many with strong family and other ties to the United States. There can be no question that the United States must continue for the foreseeable future a refugee resettlement program for these cases.

But this humanitarian task—for us as well as for the other resettlement countries—is going to be increasingly difficult as these refugees and family reunification

[3] "Refugee Problems in Southeast Asia: 1981", *op. cit.*, p. 33.

cases are engulfed in a migratory flow. There are growing numbers of persons—particularly among those Vietnamese leaving their coutnry in boats, and Laotians crossing the Mekong River—who are classic examples of economic migrants: persons leaving their native lands to find a better life elsewhere. Obviously, there is nothing new or wrong about such desires or such movements; but migrants do pose different problems, and they can and must be treated differently from refugees.

In the context of Southeast Asia, this distinction will not be easy—given the absolute refusal of countries of first asylum to consider local settlement or accepting migrants from neighboring countries. For a variety of historical and ethnic reasons, the arrival of Vietnamese is particularly troublesome for most—and Thailand has insisted from the outset it will not allow any Vietnamese to remain in Thailand, given their problems since 1954 with Vietnamese entering their country.

But there can be little doubt today that a large migratory flow has developed from Indochina, and will likely continue if new initiatives are not taken to cope with it. Neither "humane deterrance"—lengthy stays in camps—or the continued risks of the high seas has stemmed the flow. According to the most recent survey of new Vietanmese boat arrivals in Song Khla, Thailand, only "one-third gave political persecution as their personal motivation for flight from Vietnam. Fifteen percent fled to evade military service, 4 percent to reunite with family members overseas, and 47 percent cited economic hardship and a desire for personal advancement as their prime motivation for flight." [4]

In addition, this survey found that "the group exhibited a high awareness of the perils of piracy and the provisions of Thai 'humane deterrence' policy." Yet 47 percent risked that in the hopes of bettering their lives.

That is not to suggest, as some in the INS did a few years ago, that economic factors should be given little consideration in determining refugee status. Clearly, the economic factors and motivations that many Vietnamese cite are the result of systematic persecution. Their economic plight under the new government is merely evidence of this persecution.

This said, it is nonetheless true that a growing number of Vietnamese boat people are economic migrants—as a careful review of the Song Khla and other surveys document, and as any spot check of new arrivals reveals. A northern Vietnamese fisherman, who has lived all his life under the Communist government, who has no ties outside his fishing village below Haiphong, simply has no claim upon the international community just because he left his country by boat. But there he and his family sit in Hong Kong—now for nearly 4 years. Similarly, a young man from southern Vietnam has no claim to be a refugee simply because he does not want to serve in the military, especially when neither he or his family has been singled out for any particular treatment by the new government. Yet, he now sits in Song Khla, Thailand, and, if things continue as they are, he will be on his way to third-country resettlement—most likely to the United States—in a matter of 3 years, even though he has no ties to the United States or any other third country and is completely nonpolitical. The cases go on and on.

Yet, to acknowledge this fact in the context of Southeast Asia today is to raise some extraordinarily difficult issues and problems—which perhaps explains why so many have tried to avoid or minimize them over the past 3 years.

It seems clear that the Vietnamese boat migrants cannot stay forever in the countries of first asylum. Yet, if we are to be fair to *bona fide* refugees, we should not move these migrants for third-country resettlement. What, then, can we do with them? With the options of local settlement and third-country resettlement eliminated, the only other alternative left is repatriation. This, obviously, will be extremely difficult to arrange. But, to date, it hasn't really been tried.

Despite repeated assurances by the UNHCR and others that we are pursuing repatriation, this option hasn't really been given top priority. Certainly the results to date are singularly disappointing. Except for a few thousand Laotians, there have been virtually no repatriations to Laos, Vietnam, or Kampuchea. Even the UNHCR staffing in the field betrays their priorities; in Bangkok there are only a few officers concerned with repatriation while scores of others are busy facilitating third-country resettlement and providing assistance and protection to new arrivals.

This is not to "blame" or criticize UNHCR for achieving something they cannot do alone—to negotiate satisfactory repatriation agreements without the support of governments. They will need strong diplomatic support and the involvement of all concerned governments. But, again, there is little evidence that the United States

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[4] For complete text of the Song Khla survey, see Appendix III.

has really given any greater priority to repatriation than has the UNHCR—and neither will as long as massive third-country resettlement opportunities exist.

This obviously must change—not only because third-country resettlement numbers are destined to be reduced—but also in fairness to the *bona fide* refugees who are, in effect, being penalized because they are arriving with a migrant flow that is not being treated differently from the refugee flow. In Hong Kong, an arriving refugee will be forced to go to a prison-like "closed camp", and in Thailand to needlessly wait for years before being processed—simply because they are mixed with Indo-Chinese migrants.

Recommendation: The time has come for the UNHCR to begin the difficult task of interviewing all new Indo-Chinese arrivals to determine who are refugees under the United Nations Convention and Protocol, sorting out those who are migrants. Migrants must be treated differently or, in a reverse sense, the status of a refugee will be eroded since we are penalizing them for being mixed with a migrant flow. By beginning to sort out who is a refugee and who is a migrant, both the UNHCR, the countries of first asylum, as well as those resettlement countries, can more fairly deal with both groups.

But the UNHCR cannot begin such a case-by-case determination without diplomatic support, without some progress in opening up other durable solutions beyond third-country resettlement, and without some assurance that it will not be left holding the bag. The UNHCR understandably cannot accept responsibility for refugees who cannot stay in countries of first asylum, without some guarantee that the other options—repatriation or third-country resettlement—will be available before that responsibility is assumed.

2. Negotiations for repatriation

The time has come for the UNHCR and the international community to urgently undertake the kind of diplomatic efforts that preceeded the 1979 Geneva Conference on Indo-Chinese Refugees, which then led to the progress achieved in beginning to control the massive boat flow. Perhaps in the context of the forthcoming Executive Committee meeting of the UNHCR, scheduled for early October in Geneva, all parties involved could review the current situation in Southeast Asia with a view to adopting new policies and procedures for dealing differently with refugees and migrants. In this, the key ingredient will be the option of repatriation.

In the case of Laos, UNHCR officers should thoroughly and strictly review all new arrivals. If they did so, most observers believe only a few refugees would be accepted and the vast majority could be treated by Thai authorities as asylum-seekers for whom asylum can be denied after appropriate review with UNHCR observers. They will then be "deported", not "repatriated," back to Laos. The issue of voluntary or involuntary repatriation will simply not arise—as it does not for Pakistanis denied asylum in Berlin or Haitians in Florida (not to mention the hundreds of Salvadorans who the United States questionably returns each month without even involving the UNHCR in the process). Some Thai officials have indicated a willingness to undertake such a procedure with the UNHCR for all new Laotian arrivals.

With Vietnam and Kampuchea the issue will be vastly more difficult and complicated. But to say a negotiated repatriation program will be difficult should not be to say it shouldn't be tried—and tried with the sustained diplomatic support and involvement of the United States and other interested countries. To date, we have seen neither.

Also, such negotiations will inevitably involve giving some incentives for Vietnam to participate, and we should be prepared to cooperate in offering them.

Finally, it would not be unreasonable for resettlement countries to condition their further resettlement of refugees on some evidence that the UNHCR is finding alternative solutions to third-country resettlement for new arrivals from Indochina. Historically, the UNHCR has always stated that third country resettlement was the least preferred durable solution—that repatriation or local settlement were far preferrable. After nearly a decade of Indo-Chinese resettlement, it is time to see some evidence that this preference is being pursued and with some tangible results.

3. Orderly departure program

Another promising option for coping with the Indo-Chinese flow is the expansion of the Orderly Departure Program (ODP) which was negotiated by the UNHCR with the Government of Vietnam in 1979. Established with the goal of providing both a legal and safer avenue to leaving Vietnam than by boat, the ODP has slowly developed momentum as both Vietnam and receiving countries have given bureaucratic and programmatic support to its implementation. This year more Indo-Chinese moved through ODP than arrived by boats in asylum countries. We should spare no

diplomatic effort to assure that this trend continues. This will mean committing markedly increased resettlement numbers to ODP during the coming fiscal year.

As outlined in table I, a total of 61,913 Vietnamese have moved to over 15 countries through ODP since 1979—with 22,525 coming to the United States as of June 1984, or nearly a third of the total. Nonetheless, a backlog of nearly a half a million applications remains piled up at the ODP office in the U.S. Embassy in Bangkok. As detailed in table II, these applications are principally from family members in the United States, but there are many with strong and compelling ties to our country, and for whom we have the highest moral obligation to assist.

TABLE I.—TOTAL ORDERLY DEPARTURE MOVEMENTS

[As of June 30, 1984]

Country	July 1979 to September 1981	October 1981 to September 1982	October 1982 to September 1983	October 1983 to June 1984	Total
United States	2,369	4,261	6,708	9,187	22,525
France	5,580	2,680	1,897	1,085	11,242
Canada	1,412	2,252	2,471	4,932	11,069
West Germany	1,065	1,214	1,306	1,484	5,069
Australia	131	15	841	1,512	2,499
Belgium	815	643	449	288	2,195
United Kingdom	298	367	656	706	2,027
Sweden	535	266	213	172	1,186
Netherlands	228	118	143	186	675
Switzerland	354	104	99	87	644
Norway	49	115	95	739	498
Italy	146	48	183	98	475
New Zealand	36	53	153	164	406
Austria	132	107	95	68	402
Others	305	230	322	146	1,003
Total	13,455	12,473	15,631	20,354	61,913

ORDERLY DEPARTURE MOVEMENTS TO THE UNITED STATES

Fiscal year	Citizens	Immigrants	Nonimmigrants	Refugees	Total
1980 (October 1979–September 1980)	7	508	15	134	664
1981 (October 1980–September 1981)	8	793	13	891	1,705
1982 (October 1981–September 1982)	19	1,498	32	2,712	4,261
1983 (October 1982–September 1983)	83	1,379	22	5,224	6,708
1984 (October 1983–June 1984)	14	2,680	16	6,477	9,187
Total	131	6,858	98	15,438	22,525

The U.S. ODP Office of Embassy Bangkok has the following active cases and persons on file:

TABLE II.—PROFILE OF ODP CASES PENDING IN BANGKOK

	Cases	Persons
Family reunification	86,298	364,705
Former USG employees	6,322	26,639
Former Vietnamese employees of United States businesses, reeducation camp inmates and releases, etc.	14,988	75,492
Children	6,310	23,169
Others	230	445
Total	114,148	490,450

Based on numbers—both those who have been able to come out, as well as the caseload waiting in Vietnam—the ODP is succeeding and has great potential—although it has yet to completely turn-off the boat flow. However, we have reached a watershed in the program where one critical issue must be resolved or the program will fail: the composition of those coming out under the program. The issue is whether those coming out through ODP reflect the priorities and interests of the receiving countries, and not just the interests of Vietnam.

Although accurate statistics are not available, it appears that far less than 40 percent of those who have come to the United States through ODP appeared on the lists submitted by us to Vietnam—some estimate the number is even lower. Until now Vietnam has viewed the program as a means to rid themselves of certain unwanted segments of the population—ethnic Chinese and Amerasian children.

Fortunately, there is some indication that this trend is reversing and with a little diplomatic activity and, a pledge to significantly increase the numbers we are prepared to accept under the program, it appears the Vietnamese may be willing to put in place the necessary bureaucratic machinery to make ODP conform more to the interests of receiving countries. It should be made clear to them that if they don't—if family reunion and other priority cases on the United States list do not come out this year in greater numbers—we will have no alternative but to curtail our participation in the program. Of course, there will always be some who come out at Vietnam's insistence, but the ratio must change and reflect more the priorities of the receiving countries.

Recommendation: In order to expand the ODP program—to make it an even more attractive and hopeful alternative to fleeing Vietnam by boat—the United States should join with others in significantly expanding the program this coming year. At a minimum we should be prepared to signal our intentions to Vietnam by doubling the resettlement numbers we are prepared to take next year—from 10,000 to 20,000—and to establish this as a special category within our overall ceiling, and earmarking numbers for Amerasian children.

If, in turn, Vietnam begins processing those cases that are highest on the United States list, the number leaving will even be greater—since many of these are the beneficiaries of immigrant visa petitions and are not counted against the refugee ceiling.

This provides an obvious basis for negotiating with Vietnam on an expansion of the ODP program. The quid-pro-quo: the receiving countries, particularly the United States, will signficantly increase the numbers we receive if they give us the people we want.